



Department of Transportation

Office of the Secretary

700 E Broadway Avenue

Pierre, South Dakota 57501-2586

PHONE: 605/773-3265 FAX: 605/773-3921

March 28, 2019

BIG Notice to Proceed Date

County Commissioners

Lawrence County

NOTICE OF AWARD

2019 Replacement/Major Rehabilitation Bridge Improvement Grant

Structure Number 41-212-091

Project Number BRF 6503(00)19-5, PCN 075K

Grant Amount = \$664,100.00(50%)

I am pleased to inform you that the South Dakota Transportation Commission approved a Local Bridge Improvement Grant (BIG) in the amount shown above for the noted structure during their March 28, 2019 commission meeting. A funding agreement and specific information and documents for this grant will be sent to you at a later date.

If you have questions, please feel free to contact Tammy Williams at 605-773-8149 or Doug Kinniburgh at 605-773-4284.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Bergquist', is written over the typed name and title.

Darin P. Bergquist
Secretary

Attachment

cc: County Highway Superintendent
File

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
BRIDGE IMPROVEMENT GRANT AGREEMENT
FOR REHABILITATION/REPLACEMENT

This Agreement is made and entered into by and between the State of South Dakota, acting by and through its Department of Transportation, referred to in this Agreement as the "STATE," and the county of Lawrence, South Dakota, referred to in this Agreement as the "COUNTY."

BACKGROUND:

1. The STATE has funding available for preservation, rehabilitation, or replacement of eligible local public agency bridges. The funding is only available for bridges located on local public roads.
2. The COUNTY has applied for and the STATE has awarded to the COUNTY a Bridge Improvement Grant ("BIG") for rehabilitation/replacement of structure number 41-212-091, project number BRF 6503(00)19-5 PCN 075K, referred to in this Agreement as the "PROJECT."

THE STATE AND THE COUNTY MUTUALLY AGREE AS FOLLOWS:

1. The COUNTY applied for and was awarded a BIG for rehabilitation/replacement for the PROJECT. The BIG award amount is six hundred sixty-four thousand one hundred dollars (\$664,100.00), plus eighty percent (80%) of the actual costs of reasonable and necessary construction engineering for the PROJECT.
2. The STATE issued a letter on March 28, 2019 notifying the COUNTY of the award of the BIG. The letter of award is attached to and incorporated in this Agreement as **Exhibit A**.
3. This Agreement is effective on the date of the letter of award attached as **Exhibit A**. The rehabilitation/replacement work contemplated by this Agreement will be completed no later than four years from the date of the letter of award. No reimbursements will be processed by the STATE for work performed after the date of March 28, 2023.
4. The COUNTY will select a professional engineering firm from the STATE'S current consultant retainer list for the bridge design category of work.
5. The STATE will hire the professional engineering firm selected by the COUNTY to perform the design engineering for the PROJECT. The scope of the design engineering services to be performed is identified in the attached **Exhibit B**.
6. The parties recognize that unanticipated and time-sensitive work may be needed for completion of the PROJECT and that delays in completing such work could jeopardize the PROJECT schedule. The COUNTY authorizes the STATE to write work orders and hire consultants for the PROJECT for unanticipated and time-sensitive work that must be completed promptly in order to avoid PROJECT delays and increased PROJECT costs. The COUNTY'S signature will not be required for these work orders or consultant agreements, and the COUNTY agrees to pay for the cost of this additional work in accordance with the provisions of this Agreement. The STATE will notify the COUNTY of the purpose and need of any such work orders or consultant agreements prior to the STATE issuing a Notice to Proceed for the additional work. The STATE will provide the COUNTY with a fully executed copy of any work order or consultant agreement executed by the STATE pursuant to this section of the Agreement.
7. The STATE will conduct the foundation investigation.
8. The COUNTY will review the final plans for the PROJECT and will issue written authorization for the PROJECT bid-letting on a letting authorization form provided by the STATE.

9. After receipt of the authorization for bid-letting, the STATE will advertise the PROJECT for bids and be the contracting party.
10. The STATE will enter into a construction contract with the lowest responsible bidder.
11. The STATE will issue a notice to proceed to the lowest responsible bidder.
12. The STATE will provide all construction engineering services for the PROJECT. At the STATE'S option, the construction engineering services may be performed by STATE employees or by a consultant hired by the STATE. Construction engineering will include inspection services.
13. The STATE will directly pay engineering and construction contractors for PROJECT costs.
14. The STATE will be responsible for eighty percent (80%) of the actual cost of construction engineering services for the PROJECT. For all other PROJECT work, the STATE will be responsible for fifty percent (50%) of eligible costs, not to exceed the BIG award amount of six hundred sixty-four thousand one hundred dollars (\$664,100.00). The COUNTY will reimburse the STATE for all remaining PROJECT costs. The COUNTY will make reimbursements within thirty (30) days of receipt of a billing from the STATE.
14. As part of the PROJECT, one or more signs will be erected to indicate the PROJECT was built with a BIG. The COUNTY will be responsible for maintaining these signs for the life of the bridge.
15. The STATE will notify the COUNTY upon completion of the rehabilitation/replacement work under this Agreement.
16. The STATE will obtain all necessary PROJECT environmental clearances and permits as required for the PROJECT. If any part of the PROJECT affects the Federal Emergency Management Agency's (FEMA) flood plain insurance maps, the COUNTY will be responsible for all map revisions and obtaining FEMA approval or a Conditional Letter of Map Revision (CLOMR).
17. The COUNTY will obtain all necessary right-of-way for the PROJECT according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended in 1987. The COUNTY will use unaltered STATE forms in obtaining right-of-way.
18. The COUNTY will arrange for all needed utility adjustments as part of the PROJECT and certify prior to advertisement or letting that all right-of-way and utility adjustments or agreements are in place.
19. The COUNTY certifies the COUNTY has a conflict of interest policy and enforces said policy.
20. The COUNTY certifies the COUNTY has filed an Internal Revenue Services (IRS) Form 990 in compliance with federal law, if applicable. The COUNTY will display the filed IRS Form 990 on the COUNTY'S website immediately upon filing.
21. The COUNTY certifies the COUNTY employs an effective internal control system.
22. The COUNTY certifies the COUNTY is in compliance with the federal Single Audit Act and the requirements of SDCL § 4-11-2.1, if applicable. The COUNTY further certifies audits are displayed on the COUNTY'S website.
23. The COUNTY will include provisions in the COUNTY'S contracts and subcontracts, if any, requiring the COUNTY'S contractors and subcontractors to comply with the applicable provisions of this Agreement, to indemnify the STATE, and to provide insurance coverage for the benefit of the STATE, all in a manner consistent with this Agreement. The COUNTY will cause the COUNTY'S contractors, subcontractors, agents, and employees to comply with applicable federal, state, and local laws,

regulations, ordinances, guidelines, permits, and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

24. The COUNTY will indemnify the STATE, its officers, agents, and employees against any and all actions, suits, damages, liability, or other proceedings that may arise as the result of the COUNTY'S performance under this Agreement. This section does not require the COUNTY to be responsible for or defend against claims or damages arising from errors or omissions of the STATE, its officers, agents, or employees.
25. All PROJECT charges will be subject to audit by the STATE. The COUNTY and the COUNTY'S contractors and subcontractors will keep accounting records clearly identified with this Agreement, and will support all PROJECT charges by documents which evidence, in detail, the nature and propriety of those charges.
26. Upon reasonable notice, the COUNTY and the COUNTY'S contractors and subcontractors will allow the STATE, through any authorized representative, to have access to and the right to examine and copy all records, books, papers, or documents related to services rendered under this Agreement. The COUNTY will keep these records clearly identified and readily accessible for a period of three (3) years after the date of final payment under this Agreement.
27. The COUNTY will abide by the requirements of Title VI of the Civil Rights Act of 1964, incorporated in and attached to this Agreement as **Exhibit C**.
28. The COUNTY will perform under this Agreement in compliance with the Americans with Disabilities Act of 1990 and any amendments.
29. This Agreement may not be amended, except in writing, which writing will be expressly identified as a part of this Agreement, and be signed by an authorized representative of each of the parties.
30. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, the STATE may terminate this Agreement. Termination for any of these reasons is not a default by the STATE nor does it give rise to a claim against the STATE.
31. The parties may terminate this Agreement by mutual written agreement. The STATE may also terminate this Agreement if the COUNTY breaches any terms of this Agreement. If the STATE terminates this Agreement due to the COUNTY'S breach, then any payments owed to the COUNTY at the time of termination may be adjusted to cover any additional costs to the STATE because of the COUNTY'S breach. The adjustment of payments will be in addition to any other remedies the STATE may pursue as a result of COUNTY'S breach, and the STATE does not waive these other remedies by making a payment adjustment. If termination is not due to a breach by the COUNTY, then the COUNTY will be paid for eligible PROJECT costs incurred up to the date of termination, subject to the maximum limiting amount of the BIG.
32. The COUNTY must comply with all federal, state, and local laws, together with all ordinances and regulations applicable to the work and will be solely responsible for obtaining current information on such requirements. The COUNTY must procure all licenses, permits, or other rights necessary for the fulfillment of its obligations under this Agreement.
33. This Agreement will be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement will be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
34. If any court of competent jurisdiction holds any provision of this Agreement unenforceable or invalid, such holding will not invalidate or render unenforceable any other provision of this Agreement.

- 35. All other prior discussions, communications, and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and, except as specifically provided in this Agreement, this Agreement constitutes the entire agreement with respect to its subject matter.
- 36. The COUNTY has designated its Commission Chairperson as the COUNTY'S authorized representative and has empowered the Chairperson with the authority to sign this Agreement on behalf of the COUNTY. A copy of the COUNTY'S Commission minutes or resolution authorizing the execution of this Agreement by the Chairperson as the COUNTY'S authorized representative is attached to this Agreement as **Exhibit D**.

This Agreement is binding upon the signatories not as individuals but solely in their capacities as officials of their respective organizations and acknowledges proper action of the STATE and the COUNTY to enter into the same.

COUNTY of Lawrence, South Dakota

State of South Dakota
Department of Transportation

By: _____

By: _____

Its: Commission Chairperson

Its: Program Manager,
Administration Program

Date: _____

Date: _____

Attest:

COUNTY Auditor/Clerk

(COUNTY SEAL)